

Appl. No. 10/052,966
Atty. Docket No. G-271ML (CP-1230)
Amdt. Dated October 21, 2008
Reply to Office Action of July 21, 2008
Customer No. 27752

REMARKS

Amendments to the Claims

Claims 1-3 and 25 are currently pending. Claims 4-6 and 10-24 were previously canceled. Claims 7-9 are currently cancelled and claim 26 is withdrawn. No additional claims fee is believed to be due.

Rejection Under 35 USC §103(a) Over German Application No. 4429344 to Rose et al.

Claims 1 and 25 have been rejected under 35 U.S.C. §103(a) as being unpatentable over German Application No. 4429344 to Rose et al. ("Rose"). The Office asserts that Rose teaches aminomethylated dihydroxybenzene compounds and their use in oxidative hair dyeing. The Office asserts that Rose teaches the compound 4-[[bis92-hydroxyethyl) aminomethyl]-1, 3-benzenediol. The Office acknowledges that the claimed compound requires an aminomethyl substitution at the 2-position, while the compound of Rose requires an aminomethyl substitution at the 4-position. The Office asserts that the claimed compound is obvious over the compound of Rose, because the two compounds are structurally similar and hence expected to possess similar properties. Applicants respectfully traverse the rejection.

The compounds of claims 1 and 25 are aminomethylated dihydroxybenzene compounds, specifically 1,3-benzenediol compounds having an aminomethyl substitution at the 2-position. This substitution at the 2-position renders the 4-position and the 6-position available for coupling. The compounds disclosed in Rose, however, require an aminomethyl substitution at the 4-position. The compounds of Rose can therefore undergo coupling only at the 6-position. As outlined in the enclosed declaration by Dr. Mu-Ill Lim, the two compounds would not be expected to possess similar properties, because the claimed compound, with the 4-position and the 6-position available for coupling, allows for additional coupling reactions (reactions at the 4-position as well as the 6-position) and allows for the formation of additional chromophores, thereby affecting the ultimate color imparted to the hair. Furthermore, Dr. Lim explains that when the compound of Rose reacts with a primary intermediate dye precursor, such as p-phenylenediamine (or a derivative thereof), the chromophore generated is different from

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the chromophore generated from the reaction of the claimed compound with p-phenylenediamine. Consequently, according to Dr. Lim, a hair colorant composition containing the Rose compound would yield a different color in hair than a composition containing the applicant's compound.

Accordingly, the Rose reference fails to establish a *prima facie* case of obviousness with respect to applicant's claim 1 and claim 25, which recites various 2-aminomethyl-1,3-benzenediol compounds. The applicant respectfully submits that these rejections are in error and should be withdrawn.

Rejection Under 35 USC §103(a) Over German Application No. 4200534 to Konrad et al.

Claims 1-3 and 25 have been rejected under 35 U.S.C. §103(a) as being unpatentable over German Application No. 4200534 to Konrad et al. ("Konrad"). The Office asserts that Konrad teaches the compound 4-[[[4-hydroxyphenyl) amino] methyl]-1, 3-benzenediol. The Office acknowledges that the claimed compound requires an aminomethyl substitution at the 2-position, while the compound of Konrad requires an aminomethyl substitution at the 4-position. The Office asserts that the claimed compound is obvious over the compound of Konrad, because the two compounds are structurally similar and hence expected to possess similar properties. Applicant respectfully traverses the rejection.

For the reasons discussed above (in regard to the Rose reference) and for the reasons discussed in the enclosed declaration by Dr. Mu-Ill Lim (in regard to both the Rose and the Konrad reference), the compounds of the instant invention and the compounds of Konrad would not be expected to possess similar properties. As such, the claimed compound is not obvious over the compound of Konrad. Accordingly, the Konrad reference fails to establish a *prima facie* case of obviousness with respect to applicant's claim 1 and claim 25, which recites various 2-aminomethyl-1,3-benzenediol compounds. Claims 2 and 3 depend from claim 1 and are therefore patentable for the same reasons as claim 1. The applicant respectfully submits that these rejections are in error and should be withdrawn.

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Rejection Under 35 USC 103(a) Over German Application No. 4200534 to Konrad et al.
or German Application No. 4429344 to Rose et al. in view of US Patent No. 3951970 to
Razdan et al.

Claims 7-9 have been cancelled without prejudice, thereby rendering the rejection of claims 7-9 moot.

CONCLUSION

In light of the remarks presented herein, it is requested that the Examiner reconsider and withdraw the present rejections. Early and favorable action in the case is respectfully requested.

Applicant has made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicant respectfully requests reconsideration of this application and allowance of Claims 1-3 and 25.

Respectfully submitted,

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